IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 30511 of 2006(G)

PETITIONER:

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1. JAYAKRISHNAN K.S.,
   S/O.LATE SIVASANKARAN NAIR, AGED 45,
   RESIDING AT NACHATTU HOUSE, KAKKASHAM,
   ALAPPUZHA.

2. RAJASREE R.S., W/O.JAYAKRISHNAN K.S.,
   AGED 38, RESIDING AT NACHATTU HOUSE,
   KAKKAZHAM, ALAPPUZHA.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.M.D.SASIKUMARAN
SRI.P.J.JOSEPH
SRI.GEORGE MATHEW
SRI.A.V.TELLES
SRI.VIJO JOSE

RESPONDENTS:

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1. M/S.STATE BANK OF INDIA,
   LOACAL HEAD OFFICE, S.S. KOVIL STREET,
   THIRUVANANTHAPURAM, REPRESENTED BY ITS
   GENERAL MANAGER.

2. M/S.STATE BANK OF INDIA, BEACH BRANCH,
   ALAPPUZHA, REP. BY ITS ASST. GENERAL MANAGER.

3. THE SETTLEMENT ADVISORY COMMITTEE,
   STATE BANK OF INDIA, LOCAL HEAD OFFICE,
   S.S.KOVIL STREET, THIRUVANANTHAPURAM.

BY ADV. SRI.GEORGE THOMAS(MEVADA), SC, SBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/01/2007, ALONG WITH WPC NO. 23882 OF 2006 & WPC NO. 30503 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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W.P.(C).No.30511 of 2006

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Dated this the 30th day of January, 2007.

J U D G M E N T

The petitioners availed housing loan. The security offered is apparently collateral, which is also offered for the purpose of the loan transactions, the subject matter of W.P(C)Nos.23882/2006 and 30503/2006, which I have disposed of by a separate judgment today.

2. The issues in hand in W.P.(C)No.305011 of 2006 are apparently matters which would gain attention in a statutory appeal under the SARFEASI Act before the DRT. Under such circumstances, the learned counsel for the petitioner made a plea that there may be a direction to release the securities offered in relation to the transaction in question in this writ petition on remitting the entire amounts due so that the properties could be better used. The arguments seems to be quite reasonable on the basis of the assumptions of the petitioner. However, that does not appear to be acceptable, as already noticed, collateral securities offered in this case were the same in relation to some commercial loans noticed above.

3. In the aforesaid circumstances, having heard the learned counsel

for the petitioner and learned counsel for the 1st respondent, bank this writ petition is disposed of directing that if the petitioners wipes off the entire outstandings, subject matter of this writ petition and provides appropriate scheme for liquidating the commercial loans, the bank will consider the OTS and also to permit the petitioner to have private sale with the intervention of the bank to ensure that the entire amounts flow into the commercial loans, thereby wiping of them also. However, if the petitioner does not take any step in this regard within a period of three weeks, the bank will be at liberty to deal with the matter as it may deem fit.

It is further clarified that this judgment does not stand in the way of the parties having any novation, if they desire to do so. It is also clarified that this judgment does not indicate anything even in that line.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

sj